



Request No. 2018-00218-FOIA-OS

Request No. 2018-00712-FOIA-OS

Campaign for Accountability v. HHS, Civil No. 18-0465 (D.D.C.)

July 23, 2018

Katie O'Connor
Campaign for Accountability

Dear Ms. O'Connor:

This letter is a first interim response to your two above-referenced Freedom of Information Act (FOIA) requests submitted to the U.S. Department of Health and Human Services (HHS).

Specifically, for request 2018-00218-FOIA-OS, you requested communications, meeting notices and agendas, and other materials for several Departmental personnel prior to the date of their hire. Please see the attached FOIA request for the exact records requested.

For this first interim response, the Department has processed 18 pages of potentially responsive records captured in the agency's search for FOIA request 2018-00218-FOIA-OS. The 18 pages of records referenced above were subject to a thorough and detailed review by the FOIA Office. After a careful review of these pages, I have determined to release four (4) pages to you in their entirety, and I am further releasing 14 pages in part, with portions redacted, pursuant to Exemption (b)(6) of the FOIA (5 U.S.C. §§ 552 (b)(6)).

Specifically, for request 2018-00712-FOIA-OS, you requested communications and calendar entries for Paula Stannard and Heidi Stirrup regarding several outside groups. Please see the attached FOIA request for the exact records requested.

The Department has processed 833 pages of potentially responsive records captured in the agency's search for FOIA request 2018-00712-FOIA-OS. The 833 pages of records referenced above were subject to a thorough and detailed review by the FOIA Office. After a careful review of these pages, I have determined to release 137 pages to you in their entirety, and I am further releasing 49 pages in part, with portions redacted, pursuant to Exemptions (b)(4), (b)(5), and (b)(6) of the FOIA (5 U.S.C. §§ 552 (b)(4), (b)(5), (b)(6)). I have also determined to withhold 203 pages in their entirety, pursuant to Exemptions (b)(5) and (b)(6) of the FOIA (5 U.S.C. § 552 (b)(5) and (b)(6)). I also determined that 25 pages were determined to be non-responsive to your request and 419 pages were duplicates of pages referenced above.

FOIA exemption (b)(4) permits the withholding of trade secrets and commercial or financial information that is privileged or confidential.

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FOIA exemption (b)(5) protects inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency. This exemption protects documents that would be covered by any privilege an agency could assert in a civil proceeding. These privileges include, among others, the deliberative process privilege, the attorney-client privilege, and the attorney work-product privilege.

FOIA exemption (b)(6) permits a Federal agency to withhold information and records about individuals in “personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” The definition of “similar files” has historically been broadly interpreted to include a wide variety of files, and the United States Supreme Court has held that Congress intended the term “similar files” to be interpreted broadly, rather than narrowly. I have analyzed these records and find they meet the threshold requirement of this exemption. Additionally, I have reviewed and weighed the public interest in disclosure of this information against the privacy interest in nondisclosure, and found that the privacy interest outweighs the public’s interest in disclosure.

We will continue to review the remaining records as efficiently and expeditiously as possible, consistent with our available resources and the Order of the Court. Should you have questions or concerns regarding the Department’s response and/or the processing of your request, any such issues should be communicated to your legal counsel and Department of Justice Attorney representing the Department in this matter.

Sincerely yours,

Michael S. Marquis
For

Michael S. Marquis
Director
Freedom of Information and Privacy Acts Division